



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 32

[CC Docket Nos. 00-199 and 99-301; DA 13-1617]

Parties Asked to Refresh the Record Regarding Property Records for Rate-of-Return Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for additional comments.

SUMMARY: In this document, the Commission seeks comment to update the record in a 2001 pending rulemaking to assess whether there are changes the Commission can make to the property record rules that would reduce record-keeping burdens for rate-of-return carriers in light of regulatory and marketplace changes that have occurred since 2001.

DATES: Comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Reply Comments are due on or before **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments identified by CC Docket Nos. 00-199 and 99-301 by any of the following methods:

- Federal Communications Commission's Web Site: <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.
- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Marvin F. Sacks, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1520 or (202) 418-0484 (TTY), or via email Marvin.Sacks@fcc.gov.

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates

indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons

making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

I. SYNOPSIS OF PUBLIC NOTICE SEEKING ADDITIONAL COMMENT IN FURTHER NOTICE OF PROPOSED RULEMAKING

1. On May 10, 2013, the Commission adopted the USTelecom Forbearance Long Order, WC Docket No. 12-61 et.al, 28 FCC Rcd 7627, FCC 13-69 (2013). It granted conditional forbearance from section 32.2000(e) and (f) ("property record rules") to price cap carriers. However, it denied forbearance from those rules to rate-of-return carriers because, among other things, it concluded that property records enable the Commission to verify the accuracy of such carriers' costs, which impacts the reasonableness of their rates. However, in an effort to obtain a record sufficient to assess whether further Commission action on property records was proper, it sought to update the record received on those issues in an earlier, pending rulemaking on accounting and reporting matters. In that rulemaking, 2000 Biennial Regulatory Review, Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2; Amendments to the Uniform System of Accounts for Interconnection, Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Local

Competition and Broadband Reporting, 67 FR 5704, Feb. 6, 2002 (Property Records FNPRM), the Commission sought comment on “alternative approaches to streamline our [property records] rules.”

2. In the USTelecom Forbearance Long Order, the Commission decided to refresh the record to assist in determining “whether there are changes we can make to our property records rules that would reduce record-keeping burdens for rate-of-return carriers by focusing on substantial assets and investments while maintaining sufficiently detailed records for the Commission’s needs.” The Commission noted that there have been “significant regulatory and marketplace changes [that] have occurred” since 2001 when the Commission adopted the Property Records FNPRM. Therefore, the Commission directed the Wireline Competition Bureau to release a Public Notice, which the Commission did in DA 13-1617, requesting parties to comment on property records issues as they relate to rate-of-return carriers in light of such changes, including the USTelecom Forbearance Long Order.

3. Consistent with the objective in the Property Records FNPRM noted above and the Commission’s stated intent in the USTelecom Forbearance Long Order to examine what changes to the property records rules would reduce record-keeping burdens for rate-of-return carriers, we request comment on the feasibility of alternative approaches to property records requirements in rules 32.2000(e) and (f). We ask that parties suggesting alternatives: (1) Identify from which sections and subsections of rules 32.2000(e) and (f) are “more burdensome than necessary;” (2) Explain how rate-of-return carriers presently comply with property record requirements, describe the current burdens with specific costs if possible, and provide a cost-benefit analysis of any proposed rule changes; (3) Propose changes to the rules, including clearly stating which subsections should be deleted or modified, and if so, in what manner; (4) Explain how their alternative proposals would achieve the Commission’s objectives to ensure just and reasonable rates and compliance with its universal service rules, and would provide adequate property record information in support of any requests for waiver of Commission rules; and (5) Explain how any changes to the rules would continue to allow independent auditors to reconcile property records to the carriers’ general ledgers and provide audit assurance that carriers are meeting regulatory accounting requirements.

4. With respect to the third point above, we request specific examples of the level of detail and type of information that should be maintained, and what information is of limited or no value to achieving the Commission's objectives. If there are examples of less burdensome property record rules that are applicable to regulated companies in other industries, we seek more information about these rules and whether they could be applied to rate-of-return carriers in the telecommunications industry. Further, we seek comment on alternative approaches, including whether and how possible changes to retirement units might reduce record-keeping burdens. We note that the current rules allow for some flexibility in the maintenance of property records. For example, section 32.2000(f)(2) states that companies may request a revision to the list of retirement units used in the basic property records, or exemption from the retirement units previously used. Therefore, we seek input on how our rules on retirement units might be changed to ease the record-keeping burden.

5. With regard to the fourth point above, we request that parties suggesting alternatives to our present requirements explain in detail how rate-of-return carriers would maintain property records going forward under any new system in a manner that would enable the Commission to satisfy its statutory responsibility to ensure just and reasonable rates, particularly considering that rate-of-return carriers' rates are directly tied to the cost of their investment. For example, would the conditional forbearance we granted to price cap carriers in the USTelecom Forbearance Long Order enable the Commission to satisfy this statutory obligation for rate-of-return carriers? We also request that commenters address how such alternatives would be sufficient to verify expenditures that are supported under the universal service high-cost program rules. We also generally ask parties to demonstrate how their alternative approach would satisfy basic requirements of property records.

6. The USTelecom Forbearance Long Order sought comments and reply comments refreshing the record 30 days and 45 days, respectively, after the accompanying Report and Order eliminating CEI/ONA narrowband reporting requirements was published in the Federal Register, 78 FR 39617, July 2, 2013. Thus the comment deadline would have been Aug. 1, 2013 and the reply comment deadline would have been Aug. 16, 2013. To ensure all interested parties have a sufficient opportunity to consider

and respond to the issues identified above, comment and reply comments dates were extended in the Public Notice to 30 days and 45 days after this Federal Register document is published. The new comment due dates are set forth under the Dates section above.

II. PROCEDURAL MATTERS

A. PAPERWORK REDUCTION ACT ANALYSIS

7. Document DA 13-1617 does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Pub. L. 104-13. In addition, therefore, it does not contain any proposed information collection burden “for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Pub. L. 107-198. See 44 U.S.C. 3506(c)(4). However, the original notice in this proceeding contained information collections subject to the PRA. We invite updated comments on the information collections proposed in this docket.

B. INITIAL REGULATORY FLEXIBILITY ANALYSIS

8. As discussed above, this Public Notice asks parties to refresh the record in the Property Records FNPRM proceeding with respect to the property records rules for rate-of-return carriers. The Initial Regulatory Flexibility Analysis for that proceeding is found at Appendix H of the Property Records FNPRM. We invite comment on the IRFA in light of developments since the issuance of the original IRFA.

9. For further information, please contact Marvin F. Sacks, Wireline Competition Bureau, Pricing Policy Division, at (202) 418-1520 or via e-mail at Marvin.Sacks@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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[FR Doc. 2013-19762 Filed 08/13/2013 at 8:45 am; Publication Date: 08/14/2013]